

Case 2:18-mj-00996-DUT r *SEALED* Document 5 Filed 05/09/18 Page 3 of 3 Page ID #:401

1 Republic Bank of Arizona, withdrew \$500,000 from SUBJECT ACCOUNT 16A
2 and opened SUBJECT ACCOUNT 16C with an initial deposit of the
3 \$500,000 he had just withdrawn from SUBJECT ACCOUNT 16A.

4 h. On or about February 15, 2018, Lacey drafted two
5 checks totaling \$1.2 million, which he used to fund his "CDARS"
6 accounts at Republic Bank of Arizona. The first check was drawn from
7 Seized Account 6 in the amount of \$600,000. The second check was
8 drawn from Seized Account 9, also in the amount of \$600,000. The
9 combination of these two checks totaling \$1.2 million were split and
10 deposited between SUBJECT ACCOUNTS 16D (which received \$600,000),
11 SUBJECT ACCOUNTS 16E (which received \$300,000) and 16F (which
12 received \$300,000).
13
14

15
16 Dated: May 8, 2018

Respectfully submitted,

17 ELIZABETH A. STRANGE
18 First Assistant United States
19 Attorney
20 District of Arizona

21 JOHN P. CRONAN
22 Acting Assistant Attorney General
23 Criminal Division, U.S. Department
24 of Justice

25 /s/John J. Kucera

26 KEVIN RAPP
27 DOMINIC LANZA
28 MARGARET PERLMETER
JOHN J. KUCERA
Assistant U.S. Attorneys

REGINALD JONES
Senior Trial Attorney

Attorneys for Plaintiff
UNITED STATES OF AMERICA

EXHIBIT C

OPTIONAL FORM NO. 10 MAY 1962 (REV. 5-22-64) PREPARED BY THE FEDERAL RESERVE SYSTEM

Cereus Properties LLC VMG Depository Account 7150 E Camelback Rd, Suite 320 Scottsdale, AZ 85251 480-800-3282		Compass Bank 91-674/1221	1007
		05/05/2017	
PAY TO THE ORDER OF	Michael G Lacey	\$	**451,205.36
Four hundred fifty-one thousand two hundred five and 36/100*****		DOLLARS	
Michael G Lacey 3300 E STELLA LANE PARADISE VALLEY, AZ 85253			
MEMO	04/27/2017 distribution		
⑈001007⑈ ⑆122105744⑆ 6			

Cereus Properties LLC		1007
05/05/2017	Michael G Lacey	
	04/27/2017 distribution	451,205.36

V O R D

Compass VMG Depository	04/27/2017 distribution	451,205.36
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Cereus Properties LLC		1007
05/05/2017	Michael G Lacey	
	04/27/2017 distribution	451,205.36

PAYMENT
RECORD

Compass VMG Depository	04/27/2017 distribution	451,205.36
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EXHIBIT D

Cereus Properties LLC
VMG Depository Account
7150 E Camelback Rd, Suite 320
Scottsdale, AZ 85251
480-800-3282

Compass Bank
01-574/4221

1010

05/23/2017

PAY TO THE ORDER OF Michael G Lacey \$ **225,602.68

Two hundred twenty-five thousand six hundred two and 68/100 ***** DOLLARS

Michael G Lacey
3300 E STELLA LANE
PARADISE VALLEY, AZ 85253

MEMO 05/23/2017 distribution

⑈001010⑈ ⑆122105744⑆ 6745

Cereus Properties LLC 1010
05/23/2017 Michael G Lacey
05/23/2017 distribution 225,602.68

VOID

Compass VMG Depository 05/23/2017 distribution 225,602.68

Cereus Properties LLC 1010
05/23/2017 Michael G Lacey
05/23/2017 distribution 225,602.68

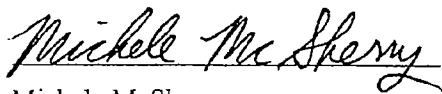
PAYMENT
RECORD

Compass VMG Depository 05/23/2017 distribution 225,602.68

EXHIBIT E

I, Michele McSherry, do declare as follows:

1. I am the office manager at Cereus Properties, LLC;
2. My telephone number is 480-800-3286;
3. On May 5th, 2017, Cereus Properties made a distribution from its account ending in 4862 (into which Cereus deposits payments from Voice Media Group) to Michael Lacey in the amount of \$451,205.36 (see Check No. 1007 attached);
4. On May 23rd, 2017, Cereus Properties made a distribution from its account ending in 4862 to Michael Lacey in the amount of \$225,602.68 (see Check No. 1010 attached);
5. The total of these two checks was \$676,808.04;
6. Mr. Lacey subsequently returned the two checks, which were voided, and asked us to instead wire the distributions to his account at Republic Bank ending in 2485;
7. I initiated a wire to Mr. Lacey's account ending in 2485. I intended to send the wire from Cereus' account ending in 4862, but, due to a clerical error on my part, I sent the wire from a Cereus account ending in 3873. To explain, I used a template that had been created the day before, and did not catch that it had the wrong account number on it;
8. I had been instructed to wire the funds from Cereus' account ending in 4862, and had intended to do so;
9. When I recognized my mistake later on May 31st, 2017, I attempted to cancel or reverse the wire transfer, but was unable to do so;
10. The next day, June 1st, 2017, I transferred money from Cereus' account ending in 4862 to its account ending in 3873 to correct my mistake;
11. I thought I had corrected my mistake by reimbursing Cereus' account ending in 3873 with funds from the account ending in 4862;
12. I swear under penalty of perjury that this information is true and correct.


Michele McSherry

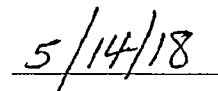

Date

EXHIBIT F

Page 2 of 3
 Primary Account: 6745314862
 Beginning June 1, 2017 - Ending June 30, 2017

30

BBVA Compass

TREASURY MANAGEMENT ANALYSIS CHECKING

Account Number: 6745314862 - CEREUS PROPERTIES LLC

Activity Summary

Beginning Balance on 6/1/17	\$768,029.17
Deposits/Credits (4)	+ \$417,712.71
Withdrawals/Debits (5)	- \$847,350.11
Ending Balance on 6/30/17	\$338,391.77

Deposits and Other Credits

Date *	Check/ Serial #	Description	Deposits/ Credits
6/1		INCOMING WIRE REF 20170601F2QCZ60C00257606011345FT01 ORG VOICE MEDIA GROUP,	\$234,940.39
6/9		INCOMING WIRE REF 20170609F2QCZ60C00270206091439FT01 ORG VOICE MEDIA GROUP,	\$66,666.66
6/29		DEPOSIT	\$49,438.99
6/30		INCOMING WIRE REF 20170630F2QCZ60C00367106301306FT01 ORG VOICE MEDIA GROUP,	\$66,666.67

Please note, certain fees and charges posted to your account may relate to services and/or activity from the prior statement cycle.
 * The Date provided is the business day that the transaction is processed.

Withdrawals and Other Debits

Date *	Check/ Serial #	Description	Withdrawals/ Debits
6/1		E-ACCESS BOOK TRSF DR TO REIMB CEREPROP FOR 5 31 DIST. THAT S B FROM VMG	\$676,808.04
6/8		OUT WT E-ACCESS CSTREP REF 20170608F2QCZ60C003088 BNF Michael G. Lacey	\$135,361.61
6/8		OUT WT E-ACCESS CSTREP REF 20170608F2QCZ60C003089 BNF Scott Spear	\$12,281.08

Please note, certain fees and charges posted to your account may relate to services and/or activity from the prior statement cycle.
 * The Date provided is the business day that the transaction is processed.

End of Business Day Balance Summary

Date	Balance	Date	Balance	Date	Balance
6/1	\$320,257.84	6/9	\$222,286.11	6/30	\$338,391.77
6/8	\$172,615.15	6/29	\$271,725.10		

Summary of Checks

Date	Check #	Amount	Date	Check #	Amount	Date	Check #	Amount
6/1	1012	\$5,903.68	6/9	1014 *	\$16,995.70			

* Indicates break in check sequence

EXHIBIT G

April Kelly

From: Janey Henze Cook <Janey@henzecoockmurphy.com>
Sent: Friday, May 25, 2018 6:39 AM
To: Erin E. McCampbell
Subject: Fwd: Clerical error



PLEASE NOTE OUR NEW ADDRESS!!!

Janey Henze Cook
722 E. Osborn Road, Ste 120
Phoenix, Arizona 85014
Direct: 602.956.1930
Cell: 602.402.9576
Main: 602.956.1730
Fax: 602.956.1220
www.henzecoockmurphy.com

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Begin forwarded message:

From: "Kucera, John (USACAC)" <John.Kucera@usdoj.gov>
Date: May 16, 2018 at 3:06:45 PM MST
To: Janey Henze Cook <Janey@henzecoockmurphy.com>
Cc: "pcambria@lglaw.com" <pcambria@lglaw.com>, "Lanza, Dominic (USAAZ)" <Dominic.Lanza@usdoj.gov>, "Rapp, Kevin (USAAZ)" <Kevin.Rapp@usdoj.gov>, "Jones, Reginald (CRM)" <Reginald.Jones4@usdoj.gov>, "Perlmeter, Margaret (USAAZ)" <Margaret.Perlmeter@usdoj.gov>
Subject: RE: Clerical error

Janey,

We will look into the issue, but it seems unlikely that we will be able to thoroughly investigate the matter and come to a conclusion this week.

-John

John Kucera | AUSA
(213) 894-3391

From: Janey Henze Cook <Janey@henzecoockmurphy.com>
Sent: Wednesday, May 16, 2018 8:48 AM
To: Kucera, John (USACAC) <jkucera@usa.doj.gov>
Cc: pcambria@lglaw.com
Subject: Clerical error

John,

This email is to confirm our conversation yesterday regarding Mr Lacey's Republic account. In that call you stated that you need to "investigate" the clerical error, and that there is no way you can discuss that issue this week. I urge you to reconsider the timing. Each day that goes by, Mr Lacey suffers undue harm.

I recognize that you are working on unsealing the documents we have been requesting and thus are busy. Nevertheless, I'm requesting that you/the agent/the team look into the issue of the clerical error as soon as possible, *ie*, this week.

As it currently stands, Mr Lacey has more bills than he has money. He does not have a bank account or a credit or debit card. Because of the pressure put on Republic bank by the postal agents, he not only has no funds, he has no bank.

Existing in today's world without a debit or credit card is nearly impossible. His lack thereof is impacting his ability to live, including his ability to comply with his release conditions. For example- his cars were seized, his wife was out of town at a funeral, and he has no ubur account. He couldn't get to a meeting with Pretrial services officer. I had to get him there. Another example is this- he has a bill to pay for electronic monitoring anklet, and the company wants payment right now via credit card. (They are in Colorado). He, as noted, doesn't have a credit card.

Mr lacey needs to pay legal bills and he needs to pay regular bills regarding his properties. Mr lacey needs to make decisions daily that turn on when his funds will be available.

I know that your position is that by releasing his 401(k) check, the government eliminated the time sensitive nature of these issues. First- that check has not cleared and is not available to him yet- so we are still frozen. (I'm hoping it will clear this week). Additionally and unfortunately, his bills (including legal bills and bills that have come in since our meeting) far exceed the \$111,000 from the 401(k) check.

Mr lacey committed no act to commingle the monies. He didn't even know this was an issue until we met with you last week. I have given you everything you need to make that determination. You don't need to rely on the declaration to know that the funds were not supposed to be mingled- you can look at the wire sent within 24 hours to replace the funds. But the declaration and attached checks also clearly show the intent- for him to be paid from the VMG account (the account the checks were drawn from) and that it was an act by a third party which resulted in the mistaken wire being sent.

I can list 50 more reasons why time is of the essence on this if you need them. I know you are busy. I respect that. But it has been six weeks without the use of his account. Please, I urge you to look at this issue as soon as possible so that he doesn't continue to suffer undue harm. If you prefer that we file a motion, I can do that. Just let me know your preference.

Thank you for your assistance.

Best,
Janey



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Janey Henze Cook
722 E. Osborn Road, Ste 120
Phoenix, Arizona 85014
Direct: 602.956.1930
Cell: 602.402.9576
Main: 602.956.1730
Fax: 602.956.1220
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EXHIBIT H

April Kelly

From: Janey Henze Cook <Janey@henzecoockmurphy.com>
Sent: Friday, May 25, 2018 6:38 AM
To: Erin E. McCampbell
Subject: Fwd: Clerical error

**HENZE
COOK
MURPHY**
ATTORNEYS AT LAW

PLEASE NOTE OUR NEW ADDRESS!!!

Janey Henze Cook
722 E. Osborn Road, Ste 120
Phoenix, Arizona 85014
Direct: 602.956.1930
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Begin forwarded message:

From: Paul Cambria <pcambria@lglaw.com>
Date: May 22, 2018 at 4:18:31 PM MST
To: "Kucera, John (USACAC)" <John.Kucera@usdoj.gov>
Cc: Janey Henze Cook <Janey@henzecoockmurphy.com>, "Perlmeter, Margaret (USAAZ)" <Margaret.Perlmeter@usdoj.gov>, "Lanza, Dominic (USAAZ)" <Dominic.Lanza@usdoj.gov>, "Rapp, Kevin (USAAZ)" <Kevin.Rapp@usdoj.gov>, "Jones, Reginald (CRM)" <Reginald.Jones4@usdoj.gov>
Subject: Re: Clerical error

I fully understand but what steps have been taken other than looking at what we have submitted. You can interview her or engage in some other step forward. This is the same that you have been saying. These funds are not tainted and they are necessary for bills and defense. What can we do to speed this up other than file a motion? If the answer is nothing then I will be glad to file

Sent from my iPhone



Paul J. Cambria Jr.
Attorney at Law

42 Delaware Ave | Suite 120 | Buffalo, NY 14202
TEL 716 849 1333 x344 | FAX 716 855 1580
email | profile | website | map | vCard

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On May 22, 2018, at 7:11 PM, Kucera, John (USACAC) <John.Kucera@usdoj.gov> wrote:

Paul,

You have provided information and made claims that we need to fully investigate, so I don't know that we can agree to a firm timeline. I can represent that the government will consider what you have provided and we will take steps to verify the information/claims. I know that isn't what you were hoping to hear, but I don't know that we can promise much else.

I will again offer to discuss applying certain of the seized funds to other seized/restrained assets that may be diminishing in value if left unattended. Please let me know if you would like to further explore that option. Perhaps that would be a quick way for us to address any urgency on this matter.

Sincerely,
John

John Kucera | AUSA
(213) 894-3391

From: Paul Cambria <pcambria@lglaw.com>
Sent: Tuesday, May 22, 2018 3:57 PM
To: Kucera, John (USACAC) <jkucera@usa.doj.gov>; Janey Henze Cook <Janey@henzecoockmurphy.com>
Subject: Clerical error

John can we please have a short turn around on this we provided sworn testimony this was not an act of my Lacey and these funds need to be released. Can we have a response I need to take the next step if you aren't willing to release these funds Thank you

Sent from my iPhone

<image001.png>